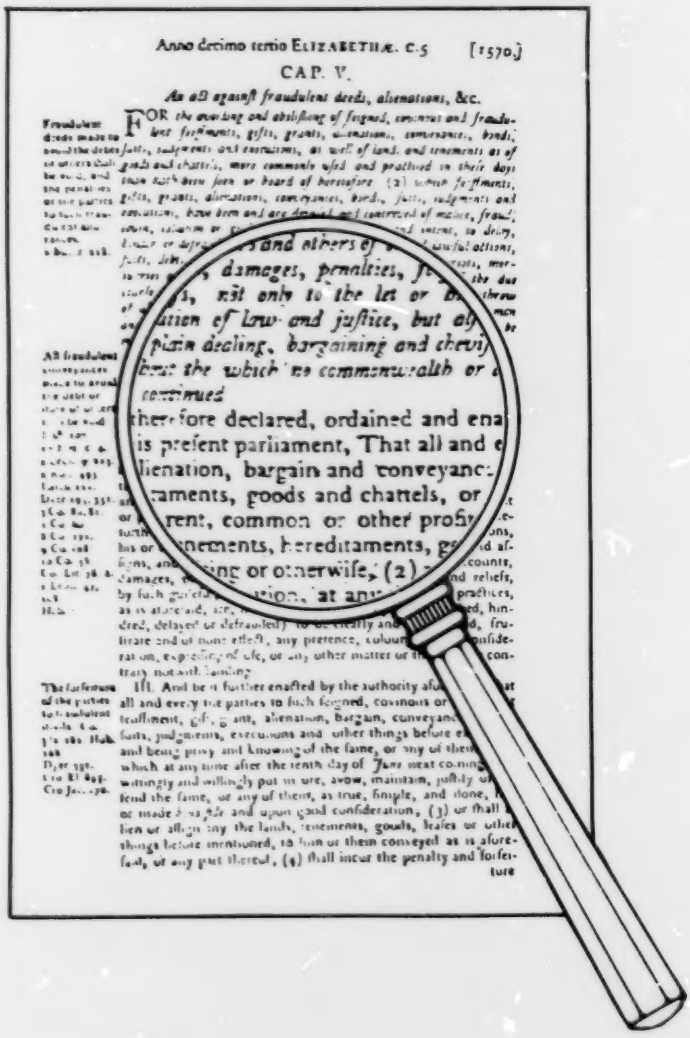
Government of Saskatchewan

Annual Report 1989 -1990

Law Reform Commission of Saskatchewan


Anno decimo tertio ELIZABETHÆ. c. 5 [1570]

CAP. V.

An act against fraudulent deeds, alienations, &c.

FOR the avoiding and abolishing of feigned, covinous and fraudulent feoffments, gifts, grants, alienations, conveyances, bonds, suits, judgments and executions, as well of lands and tenements as of goods and chattels, more commonly used and practised in these days than hath been seen or heard of heretofore (2) which feoffments, gifts, grants, alienations, conveyances, bonds, suits, judgments and executions, have been and are devised and contrived of malice, fraud, covin, collusion or guile, to the end, purpose and intent, to delay, hinder or defraud creditors and others of their just and lawful actions, suits, debts, accounts, damages, penalties, forfeitures, hazards, mortgages, forfeitures of recognizances, double vouchers, recoveries, and other assurances, to the intent or purpose not only to the let or hinderance of the due course of justice and the laws of this realm, but also to the overthrow of many honest and true mens rights and titles, whereupon have ensued not only great unquietness, but also sundry inormities and mischiefs, to the undoing of many honest householders and their families: Be it therefore declared, ordained and enacted by the authority of this present parliament, That all and every feoffment, gift, grant, alienation, bargain and conveyance of lands, tenements, goods and chattels, or any of them, or any rent, common or other profit out of the same, or any part thereof, and all bonds, suits, judgments, executions, and other things before mentioned, and every part and parcel thereof, had, made, conceived, or contrived, or hereafter to be had, made, conceived or contrived, to the end, purpose or intent to delay, hinder or defraud creditors or others of their just debts, accounts, damages, suits, penalties, forfeitures, hazards, mortgages, recognizances, double vouchers, recoveries, or other assurances, or of their just and lawful actions, suits, debts, accounts, damages, penalties, forfeitures, hazards, mortgages, recognizances, double vouchers, recoveries, or other assurances, or any of them, or to any such intent or purpose, shall be deemed and taken only as against that person or persons, his heirs, successors, executors, administrators and assigns, and every of them whose actions, debts, accounts, damages, penalties, forfeitures, hazards, mortgages, recognizances, double vouchers, recoveries, or other assurances by such guileful, covinous or fraudulent devices and practices, as is aforesaid, are, shall or might be in any wise disturbed, hindered, delayed or defrauded; to be clearly and utterly void, frustrate and of none effect, any pretence, colour, feigned consideration, expressing of use, or any other matter or thing to the contrary notwithstanding.

III. And be it further enacted by the authority aforesaid, that all and every the parties to such feigned, covinous or fraudulent feoffment, gift, grant, alienation, bargain, conveyance, bond, suits, judgments, executions and other things before mentioned, and being privy and knowing of the same, or any of them, which at any time after the tenth day of June next coming, wittingly and willingly put in ure, avow, maintain, justify or defend the same, or any of them, as true, simple, and done, had or made bona fide and upon good consideration, (3) or shall alien or assign any the lands, tenements, goods, leases or other things before mentioned, to him or them conveyed as is aforesaid, or any part thereof, (4) shall incur the penalty and forfeiture

Saskatchewan

91-04177/

ANNUAL REPORT
1989-90

Law Reform Commission of Saskatchewan

The Law Reform Commission of Saskatchewan was established by An Act to Establish a Law Reform Commission, proclaimed in November, 1973, and began functioning in February of 1974.

The Commissioners are:

Mr. Dale G. Linn, B.A., LL.B., Chairman
Madam Justice Marjorie A. Gerwing
Mr. Gordon J. Kuski, Q.C.

Mr. Kenneth P.R. Hodges, B.A., LL.B. is Director of Research.

Mr. Michael J.W. Finley, B.A., LL.B. is Legal Research Officer. The secretary is Mrs. Kate A. Rozdilsky. The summer student was Mr. Shawn Poisson.

The Commission offices are located at the Sturdy-Stone Centre, 122 Third Avenue North, Saskatoon, Saskatchewan, S7K 2H6.

NOTE

The Annual Report and Review 1988 covered the period January 1st 1988 to December 31st 1988.

This year the Annual Report and Review, renamed the Annual Report 1989-90, covers the period January 1st 1989 to March 31st 1990.

In future, the Annual Report will cover the period April 1st to March 31st each year reflecting the Commission's fiscal year.

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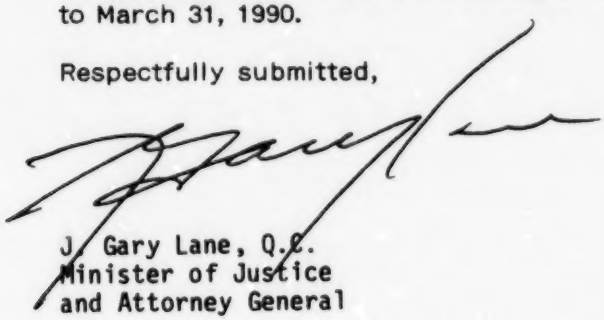
LETTERS OF TRANSMITTAL

The Honourable Sylvia Fedoruk
Lieutenant Governor
Province of Saskatchewan

Madam:

I have the honour of submitting the annual report of the Law Reform Commission of Saskatchewan for the period January 1, 1989 to March 31, 1990.

Respectfully submitted,



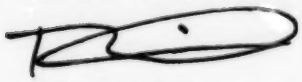
J. Gary Lane, Q.C.
Minister of Justice
and Attorney General

The Honourable Gary Lane QC
Minister of Justice
Regina, Saskatchewan

Sir:

I have the honour of submitting the annual report of the Law Reform Commission of Saskatchewan for the period January 1, 1989 to March 31, 1990.

Respectfully submitted,



Dale G. Linn
Chairman

OBJECTIVES OF THE COMMISSION

The Law Reform Commission Act provides that:

"The commission shall take and keep under review all the law of the province, including statute law, common law and judicial decisions, with a view to its systematic development and reform, including the codification, elimination of anomalies, repeal of obsolete and unnecessary enactments, reduction in the number of separate enactments and generally the simplification and modernization of the law, and for that purpose shall:

(a) receive and consider any proposals for the reform of the law that may be made to it by the Minister of Justice;

(b) prepare and submit to the Minister of Justice from time to time programs for the examination of different branches of the law with a view to their reform and shall recommend that an agency, whether the commission or a committee thereof or other body, carry out the examination;

(c) undertake, at the request of the Minister of Justice or pursuant to recommendations of the commission approved by the Minister of Justice, the examination of particular branches of the law and the formulation, by means of draft bills or otherwise, of proposals for reform therein;

(d) enter into agreements, with the approval of the Minister of Justice, with other organizations for law reform for the purposes of attaining the aims of the commission". R.S.S. 1978, c. L-8, s. 6 as amended.

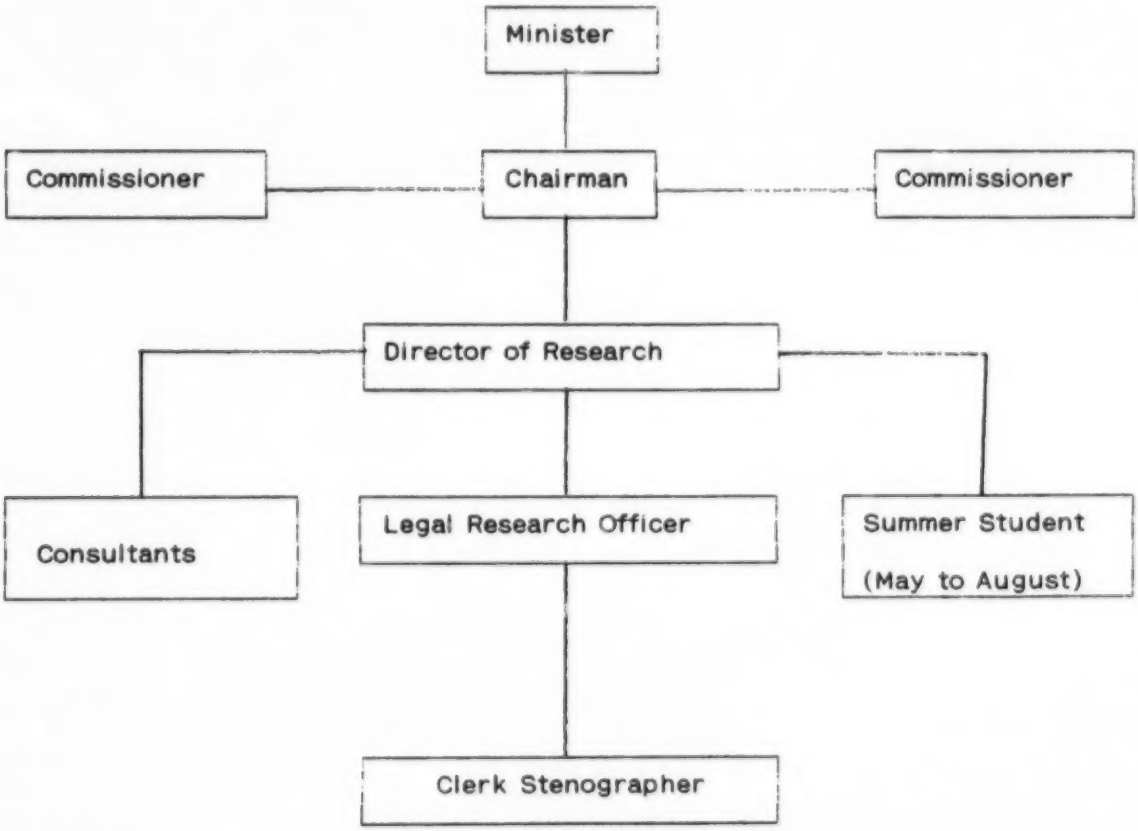
The Commission's role is to review provincial law and to assess criticisms of a significant nature from the general public concerning legislation and rules of the common law.

Topics for the Commission's research program are brought before meetings of the Commission for consideration. These topics may originate from a recommendation of the Minister of Justice, from the Commission and its staff, from the judiciary, from the legal profession, from other professional organizations, or from the public generally.

All research undertaken is supervised by the Chairman and Director of Research. Much of the research is done by the Commission's full-time staff. Mary projects, however, require substantial outside consultation and expertise. Consequently, the Commission relies on the academic staff of the College of Law of the University of Saskatchewan and elsewhere for research personnel. Legal practitioners also act as consultants from time to time and give to the Commission a practical assessment of possible recommendations for legislative and procedural change.

Once the research study in a particular project is completed, the matter is placed before the Commission for discussion and consideration. The Commission may decide to issue background papers or tentative proposals for circulation to the public in order to obtain criticism and comment prior to the preparation of a final report. This may entail public meetings, hearings and workshops. The Commission's recommendations are embodied in a final report to the Minister of Justice. This report may contain general recommendations, specific legislation or drafting instructions suggesting the form of legislation which will best implement the recommendations of the final report.

ORGANIZATION CHART



DESCRIPTION OF THE PROGRAMS AND ACTIVITIES CARRIED OUT DURING 1989-90

The programs and activities carried out during 1989-90 to a large extent are a continuation of projects commenced earlier. Some of the projects are extensive in scope and involve research in a number of areas of law.

1. Family Law

New legislation, The Children's Law Act and The Family Maintenance Act, introduced in 1989, embody much of the substance of Commission Background Reports and Tentative Proposals referred to in previous Annual Reports. No final reports in this area are now contemplated.

2. Personal Property Security Law

The study of consumer credit law and proposals for its reform are a part of the overall study of personal property security law in Saskatchewan. The Commission decided that proposals for the reform of basic chattel security law should be developed first, since the structure and terminology of a totally reformed personal property security law system would necessarily be part of the reform of consumer credit law.

Pursuant to this approach a final report entitled "Proposals for a Saskatchewan Personal Property Security Act" was issued in July, 1977. The Personal Property Security Act which stemmed from the proposals was enacted in 1980 and came into force on May 1, 1981.

The commission published "A Handbook on the Saskatchewan Personal Property Security Act" in August, 1987. The Handbook includes a commentary on personal property security legislation and a review of Saskatchewan cases interpreting and applying it up to the middle of 1987.

During 1989, Professor Ronald C.C. Cuming of the College of Law, University of Saskatchewan prepared for the Commission a draft report on the Personal Property Security Act. In this report, Professor Cuming recommends the repeal of the existing Act and its replacement with an entirely new Act that would address some of the difficulties that have arisen in the context of the existing Act and would bring the Saskatchewan Act more in line with recently-enacted Personal Property Security Acts in Alberta and British Columbia. As principal drafter of those Acts, Professor Cuming has concluded that the benefits of legislative uniformity among the western provinces should be obtained through a new Saskatchewan Act.

It is expected that the Cuming report will be published during the current year.

3. Consumer Credit Law

Several years ago, the Commission undertook an extensive study of the law affecting consumer credit transactions in Saskatchewan. As part of this project, the following papers were prepared and released: "Tentative Proposals for a

Consumer Credit Act, Part I: Background and Underlying Considerations, Part II: Statistics. A second paper entitled "Tentative Proposals for a Consumer Credit Act, Part III: Secured Consumer Credit Transactions, Summary of Recommendations" was issued in May, 1981.

A report entitled "Proposals for a Consumer Credit Act" was presented to the Minister of Justice in February 1989. This report recommended a Consumer Credit Act that addresses a wide range of consumer protection matters and that has been designed to complement The Personal Property Security Act.

While the original project design included an examination of farm credit and guarantees, the Commission decided that these are matters that should be separately addressed at a later time. It is not expected that study papers on these subjects will be produced in the current year.

4. Debtor-Creditor Law and Enforcement of Money Judgments

In 1988, the Commission decided to undertake a study of the law relating to debtor and creditor relations, with particular emphasis on money judgment enforcement. This is a very extensive project that will take several years to complete. It was decided that the first step would be the preparation of a "handbook" on existing law in this area. This would be followed by a series of studies and proposals dealing with specific aspects of judgment enforcement system. To date, some background material has been collected for the handbook. However, it is not expected that this stage of the project will be completed until 1991.

Professor Ronald C.C. Cuming of the College of Law, University of Saskatchewan is the principal consultant on this project.

5. Medical-Legal

"Tentative Proposals for a Lieutenant Governor's Review Board in Saskatchewan" was released early in 1984. These proposals were based on a report by Professor Peter MacKinnon, College of Law, University of Saskatchewan. A final report was to have been issued in 1986. However, changes to the Criminal Code are under consideration by the federal authorities, and should these be enacted, the basis of the Lieutenant Governor's Review Board will have changed and the report will be reconsidered.

6. Administrative Law

This project is now in abeyance. For details of work to date, see previous Annual Reports.

7. English Statutes

This project involves consideration of the statute laws of England which are in force in Saskatchewan. Too often lawyers are faced with the problem of

determining whether or not an ancient English statute is or is not law in this province. The British have been pruning and tidying their statutes for almost a century and, in the interests of greater certainty, it is time for the common law provinces, including Saskatchewan, to put their own houses in order. Extensive work on this project was done in 1984, 1985 and 1986, and a draft paper was submitted to the Commission for its consideration in December, 1987. A report, The Status of English Statute Law in Saskatchewan, was released in February 1990. In an appendix to the report, there are proposals for disposing of English statute law. If the proposals are generally accepted, then further work will be required to carry them out.

8. Limitation of Actions

This project involves major policy issues including mandatory notices of claims within specific periods of time, commencing actions within specific periods of time and the categorization of various actions to determine the appropriate limitation period.

A final report entitled, Proposals for a New Limitation of Actions Act, was released in April 1989.

9. The Sale of Goods Act

Saskatchewan's sale of goods law, like that of all the other common law provinces in Canada, is based almost entirely on the English Sale of Goods Act of 1893. While some areas of sales law have been subject to special legislative measures, the general law of sales has never been revised in Saskatchewan. Veneration of nineteenth century English sales law by Canadians has not been shared by the English. Their statute has been amended four times. It would be inaccurate to conclude that existing sales law is totally out of touch with the realities of modern commercial activity. The basic concepts of the 1893 Act remain relevant. Judicial development of sales law has been substantial over the years and generally has taken account of fundamental changes in sales practices. However, a strong case can be made for recodification and modernization of Canadian sales law.

In 1979, the Ontario Law Reform Commission released an extensive report on sale of goods law containing recommendations for extensive revision of the Ontario Sale of Goods Act. At the August meeting of the Uniform Law Conference held at Saskatoon, Saskatchewan, a motion was passed providing for the convening of a committee to examine the Ontario report and general sales law with a view to developing a Uniform Sale of Goods Act for all provinces in Canada.

In view of the fact that work in the area was to be carried out on a national level with the opportunity for co-operation among law reform agencies, the Commission decided that it should participate in the joint project under the auspices of the Uniform Law Conference.

The Uniform Law Conference Committee met regularly throughout 1980 and 1981. Professor Cuming, then Chairman of the Commission, represented the Commission at these meetings and proposed substantial amendments to the Ontario Law Reform Commission Draft Act. The Committee reported to the Uniform Law Conference in August of 1981 and its report was accepted.

While it is the intention of the Commission ultimately to recommend to the Minister of Justice that the Uniform Sale of Goods Act with appropriate modifications to reflect Saskatchewan conditions be enacted by the Saskatchewan Legislature, the Commission has decided to give a low priority to this project for the time being. The reason for this is the conclusion of Professor Ronald C.C. Cuming of the College of Law, University of Saskatchewan, the principal consultant on this project, that it would not be in the best interests of the province to enact a new Sale of Goods Act without some assurance that the other common law jurisdictions in Canada would do the same. While the existing law is inadequate in some respects, it is substantially uniform throughout these jurisdictions. This uniformity is very important because of the growing incidence of interprovincial sales transactions.

Although two other law reform agencies in Canada have recommended that the Uniform Act be adopted in their jurisdictions, there is currently little general interest among Canadian provincial legislators in proceeding at this time.

10. Products Liability

The project referred to in the last Annual Report is now in abeyance.

11. Real Property Law

The research relating to mortgages and other security interests in real property, referred to in the last Annual Report, is continuing.

12. The Land Titles Act

The Commission decided during the latter part of 1981 to undertake a fundamental review of The Land Titles Act. Particular attention will be paid to the machinery of the land titles system, the function of the registrar, the forms prescribed by the Act, the effect of registration, transfers, mortgages, leases and caveats with or without supporting documents, obsolete or what may be obsolete sections as well as the relationship of other statutes with The Land Titles Act such as The Tax Enforcement Act, The Mineral Taxation Act and The Planning and Development Act. The project is being carried on with representatives from Alberta, British Columbia, Manitoba, Ontario, the Yukon and the Northwest Territories. Some of the fundamental principles underlying the Torrens system were discussed at a meeting held in Edmonton in December of 1981. A second meeting was held in Edmonton in 1988 and two further meetings were held in Vancouver and Toronto in 1989.

The project is under the direction of Mr. W.H. Hurlburt, Q.C. of the Alberta Law Reform Institute. Professor Thomas W. Mapp is the consultant. It is expected a draft report will be prepared in 1990.

13. New Home Warranties

Many Saskatchewan residents buy newly constructed houses for use as family residences. However, the sale of houses by model and the growing specialization in components such as air conditioning and heating systems have made it much more difficult for consumers to ensure that they are obtaining a building which meets certain basic standards of durability and safety. Unlike the purchaser of consumer goods, the purchaser of a new home in Saskatchewan is forced to rely substantially on common law. It is somewhat anomalous that the purchaser of a small appliance such as a toaster obtains the full protection afforded by the warranty provisions of The Consumer Products Warranties Act, whereas the purchaser of a house which has a much greater value receives no similar statutory protection and very little protection under the common law. At common law, in the absence of an express statement by the builder, implied warranties as to fitness of habitation or quality of workmanship and materials only apply if the house is not yet completed. If it is completed, the doctrine of caveat emptor, long since abolished in the area of sale of goods, still applies.

The deficiencies in the common law were recognized in Ontario, and a New Home Warranties Act was passed in 1967. The Commission has been exploring the feasibility of a study which would lead to recommendations for legislation providing purchasers of new homes in Saskatchewan with an adequate measure of legal protection against construction and material deficiences and which would bring the law applicable to the sale and purchase of new homes more in line with that applicable to the sale and purchase of consumer goods. Although work has not begun because of a shortage of funds, the Commission has been seeking the services of a consultant for whom it may be possible to obtain a special grant.

14. Property Guardianship

The Commission began a study of the law governing guardianship of the property of mentally incapacitated persons. Existing legislation is contained in several statutes such as The Mentally Disordered Persons Act, The Public Trustee Act, The Mental Health Services Act and The Trustee Act. The study is to include a detailed review of the provisions of The Mentally Disordered Persons Act which in some aspects are out of date. Work is proceeding in-house on one aspect of this project, namely Certificates of Incompetence. A report may be available in 1990.

15. Costs of Accused on Acquittal

A draft report was prepared by Professor Peter MacKinnon, College of Law, University of Saskatchewan, for the Law Reform Commission of Canada and the Law Reform Commission of Saskatchewan. It was ultimately decided that each Commission would issue separate reports. Further work was done by Mrs. Vera-Marie Wolfe for

the Saskatchewan Commission and in July, 1987 a report entitled "Tentative Proposals for Compensation of Accused on Acquittal" was issued. Work on a final report is in abeyance at present.

16. The Marriage Act

Professor Ronald Fritz, College of Law, University of Saskatchewan, has prepared a report reviewing The Marriage Act. The report will be considered by the Commission in due course.

17. Living Wills

In response to a request from a member of the general public, the Commission has decided to investigate the possibility of adoption of living wills legislation. There is a concern by many people, particularly the elderly, that when they become incapacitated by disease or illness or when death is the inevitable outcome of an illness, they will be kept alive by life-sustaining procedures. The problem arises where the patient, by reason of a mental or physical disability brought on by the illness, is unable to consent to the procedures to be undertaken or to withhold such consent. The proposed solution is the legal recognition of wills that direct physicians to withhold or withdraw medical procedures.

Since the Commission began studying the matter of living wills it has become apparent that there are other avenues to be explored such as the enduring power of attorney or the Californian concept of the durable power of attorney. Preliminary work is being done in-house.

18. The Bulk Sales Act

Research on this topic, originally intended to consider only selected aspects of the legislation, has become a complete review. A report will be issued in 1990.

19. Other Activities

On occasion, representatives of the Commission have met with or made presentations to public organizations, service groups and others, and have explained the role of law reform to students. When reports are released by way of tentative proposals, press releases are issued, press conferences held and appearances made on radio and television. While law reform often is a highly technical matter, law does not operate in a vacuum and every effort is made to keep the general public fully informed of the Commission's activities. The Commission and its staff are always receptive to comments from organizations and the public at large.

Members of the Bar have been invited to suggest areas in need of reform, and have brought to the attention of the Commission many difficulties encountered in everyday practice. The Commission is attempting to involve the practising Bar to a greater degree in law reform, and has undertaken to deal with several smaller practice-oriented problems, in some instances engaging the services of the same

lawyers who brought the anomalies to its attention.

The Commission intends to undertake a study of the law relating to structured settlements and the need for reform. It is also reviewing The Fatal Accidents Act, The Arbitration Act and The Trustee Act.

Proposals for a Consumer Credit Act

The report recommends repeal or amendment of a number of existing statutes and the enactment of two new Acts: The Consumer Credit Act and the Pawnbrokers Act.

The report is the second major report from the Commission prepared as part of a comprehensive study of provincial law dealing with credit. The first report resulted in the enactment of The Personal Property Security Act, which gave Saskatchewan the most modern and efficient system for the regulation of secured credit transactions in the world.

Consumer credit law in Saskatchewan is very much outdated. It is contained in several different statutes, many of which were enacted in the 1930's and 1940's when the importance of consumer credit and the circumstances under which it was marketed were very different from what it is today.

The proposed Consumer Credit Act would provide a set of rules of conduct that, for the most part, are currently being followed by reputable credit grantors in Saskatchewan. The Act would modernize, simplify and rationalize this area of the law. It would recognize the fact that credit is now made available through lending institutions such as banks, credit unions, and trust companies. Current law focuses principally on credit granted by sellers, and provides little protection to borrowers.

The basic approach of the Commission has been to avoid the use of an expensive bureaucracy to protect consumer creditors. Rather, The Consumer Credit Act would dictate the form and content of credit agreements, and would require that credit consumers be informed of their rights so that they can pursue them in court.

A basic feature of the approach embodied in the proposed Consumer Credit Act is fair and equal treatment of credit grantors. Under current law, different types of credit grantors are treated very differently depending upon the type of arrangement they have with their customers. Many of these differences have only historical significance. Their effect is to confuse consumers and reduce direct competition between credit grantors.

The second Act recommended in the report deals with pawnbrokers. For the most part, pawnbroking is one type of credit granting that has escaped regulation in Saskatchewan, and yet, people who use this form of credit are generally the persons who are most in need of some public protection. It was recognized by the Commission that it would be unrealistic to apply to pawn transactions the same regulatory rules that it recommends be applied to other types of consumer credit transactions. Consequently it was necessary to recommend a set of rules designed for this very specialized and unique form of credit granting. However, like The Consumer Credit Act, The Pawnbrokers Act has been designed to ensure a fair balance between the interest of both pawnbrokers and their customers.

Proposals for a New Limitation of Actions Act

The report recommends repeal of the exiwsting Limitations Act, and 48 limitations provisions contained in other Saskatchewan statutes. The new Act would establish limitation periods of two, six, and ten years applicable to most legal actions in the province. Special limitation periods would be retained in 26 other Acts, but listed in a schedule to the new Limitations Act.

The unreformed law is unnecessarily complex. The Saskatchewan Limitation of Actions Act recognizes no fewer than 18 distinct actions grouped into categories to which limitation periods of one year, two years, six years, and ten years apply.

Limitations law has also been complicated by the proliferation of special limitation periods. Because these limitation periods are scattered throughout the statutes of Saskatchewan, they are often traps for the unwary. In some cases, a limitation period can run before the injured party could reasonably have been expected to begin a law suit.

Some of the special limitation periods appear to give more protection to professional groups and public authorities than is warranted. Doctors, dentists, accountants, and many other professions are given the protection of a one year limitation period. In the absence of a special period, a limitation period of up to six years might apply.

Special limitation periods are also objectionable because many of them are inflexible. The Limitation of Actions Act suspends the running of a limitation period against a person who is mentally incompetent or under the age of majority. However, this suspension does not apply to many of the special limitation periods outside the Limitation of Actions Act. Under the proposed Act, all the general principles contained in the Act would apply to special limitation periods.

Another problem addressed by the proposed legislation is the so-called "hidden cause of action". In an English case that set a precedent for Saskatchewan, it was held that a worker who contracted pneumomoconiosis, an industrial disease that gave no indication of its presence in early stages, could not sue for his injury. The disease was not discovered until the limitation period had expired. Several provinces have now adopted legislation stating that a limitation period does not apply in a case of personal injury until the injured party could reasonably have known that he had good cause to take legal action. The Commission recommends that a similar provision be adopted in Saskatchewan.

The limitation periods applicable to disputes involving land require special consideration in Saskatchewan. The present law is particularly unsatisfactory in regard to agreements for sale. The limitation period -- if any -- that applies when land has been sold under an agreement for sale and the purchaser defaults in

payment is simply unclear under the law as it now stands. In fact, it is possible that the vendor may lose title to the property after a limitation period has run, while the purchaser will not be able to gain title. Thus title to the property will be "left in limbo".

The Commission concludes that "limitations law and land titles law should be harmonized. It recommends that no limitation period apply to actions on agreements for sale, but that a purchaser should be able at any time before cancellation proceedings are concluded to tender the full purchase price and have the land transferred to him.

British Columbia, Nova Scotia, and Manitoba have all undertaken extensive revision of limitation statutes in recent years. Reform legislation has also been proposed in Ontario and Alberta, and the Uniform Law Conference of Canada has recommended reform on the British Columbia and Ontario models. The Saskatchewan Commission's proposals build on the foundation provided by reforms in other jurisdictions, adapting them to Saskatchewan conditions and improving on them in some important respects.

The Status of English Statute Law in Saskatchewan

The report states that "it is often difficult to determine precisely what part of English statute law adopted before 1870 remains in force in the province, or to determine how it should be applied to contemporary legal matters." Yet, every year there are at least a few cases before the courts in Saskatchewan in which the status of English laws - some even of medieval origin - must be considered.

The report makes Saskatchewan the first province to systematically deal with the problem of received English statute law. Similar research projects have been undertaken, however, in New Zealand and several Australian states. More than 15,000 English statutes were enacted between *Magna Carta* (usually regarded as the first English statute) and 1870. Prior to publication of the Commission's report, there was no comprehensive list of received law in force in Saskatchewan or in any other Canadian province. The report notes that "identification of the law that can be regarded as in force was itself a major research project, breaking new ground in Canada."

In addition, the report makes recommendations for replacing the received English law. Approximately 50 statutes, or parts of statutes, have been identified as part of the "living law" of Saskatchewan. It is proposed that these statutes, be reenacted as Saskatchewan statutes, and published in the Saskatchewan statute books. The list includes some enactments that are routinely applied by Saskatchewan courts, such as the *Partition Act* (applied when joint tenancies are severed) and the *Statute of Frauds*. Reenactment of statutes such as these would make them more accessible to Saskatchewan lawyers and the public.

The report recommends retaining a few English statutes in force without reenactment. The statutes in this category include enactments of historical significance such as *Magna Carta* and the *Bill of Rights* of 1688. All other English statutes, in the opinion of the Commission, should be repealed.

PLANS FOR 1990-91

1. Personal Property Security Law

The Commission expects to issue a report in 1990 on The Personal Property Security Act and the significance of changes in the legislation. Work will continue on this project in the areas of farm credit and guarantees.

2. Consumer Credit

Work will continue on this project particularly in the areas of farm credit and guarantees. The Commission also expects to issue a report in 1990 on The Personal Property Security Act and the significance of changes in the legislation.

3. Debtor-Creditor Law and Enforcement of Money Judgments

Work will continue on the preparation of a "handbook" on current debtor-creditor law in Saskatchewan.

4. Medical-Legal

This project continues to be monitored.

5. Administrative Law

This project is in abeyance at the present time.

6. English Statutes

Response to the proposals in the appendix to the report will be monitored.

7. The Sale of Goods Act

This project continues to be monitored by the consultant.

8. Products Liability

This project is in abeyance at the present time.

9. Real Property Law

A paper on security interests in land may be available in the near future.

10. The Land Titles Act

Some further work will be undertaken in 1990.

11. New Home Warranties

This project is in abeyance at the present time.

12. Property Guardianship

It is expected that a report will be available relating to Certificates of Incompetence in 1990.

13. Costs of Accused on Acquittal

Responses to the Commission's paper entitled "Tentative Proposals for Compensation of Accused on Acquittal" will continue to be assessed.

14. The Marriage Act

This project continues to be monitered.

15. Living Wills

A preliminary report on the law governing living wills may be prepared and released in 1990.

16. Structured Settlements

It is expected a report will be drafted in 1990.

17. The Fatal Accident Act

It is expected a report will be drafted in 1990.

18. The Arbitration Act

It is expected a report will be drafted in 1990.

18. The Trustee Act

It is expected a report will be drafted in 1990.

20. The Bulk Sales Act

It is expected a report will be issued in 1990.

21. Other Activities

The Commission undertakes a number of smaller practice-oriented projects from time to time and recommendations are made to the Minister of Justice concerning these.

FINANCIAL INFORMATION

Until March 31, 1988 the Law Reform Commission was financed by the Province of Saskatchewan through the Department of Justice with additional "block funding" from the Law Foundation of Saskatchewan. In November 1987 the Commission became a body corporate and its financing arrangements were changed commencing on April 1, 1988. For the fiscal year April 1, 1988 to March 31, 1989 the Commission received a grant of $90,000 from the Province through the Department of Justice. The Department also provided the Commission with offices, furnishings and postal facilities. The Law Foundation provided a similar grant of $90,000. In addition, the Commission received a special grant from the Law Foundation in the amount of $20,000 to cover the costs of printing reports on frustrated contracts, limitation of actions and English statutes.

For the fiscal year April 1, 1989 to March 31, 1990, the Commission received a grant of $110,000 from the Province through the Department of Justice. The increase in the grant by $20,000 provided funding for rental of offices by the Commission from Saskatchewan Property Management Corporation which rental now became the responsibility of the Commission. Grants received by the Commission from the Law Foundation during the said fiscal year amounted to about $111,250.

The Commission is most grateful for the support provided by the Province and the Law Foundation. In addition, the Commission wishes to acknowledge its indebtedness for assistance received from officials of the Legal Aid Commission, the Department of Finance and the Provincial Auditor in setting up the books of the Commission. The Commission is also indebted to the Provincial Auditor for auditing the books of the Commission and providing the Annual Financial Statements which follow.

THE LAW REFORM COMMISSION OF SASKATCHEWAN

FINANCIAL STATEMENT

Period from Incorporation
November 6, 1987 to March 31, 1988

OFFICE OF THE PROVINCIAL AUDITOR

REGINA, SASKATCHEWAN

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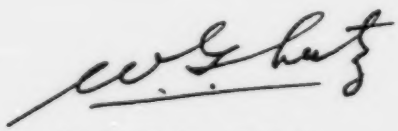
AUDITOR'S REPORT

To the Members of the Legislative Assembly of
Saskatchewan

I have examined the statement of receipts and payments of The Law Reform Commission of Saskatchewan for the period from incorporation November 6, 1987 to March 31, 1988. My examination was made in accordance with generally accepted auditing standards, and accordingly included such tests and other procedures as I considered necessary in the circumstances.

In my opinion, the statement of receipts and payments presents fairly the cash position of the Commission as at March 31, 1988 and its receipts and payments for the period then ended in accordance with the accounting principles disclosed in Note 2 to the financial statement.



Regina, Saskatchewan.
April 11, 1989

W. G. Lutz, F.C.A.,
Provincial Auditor

THE LAW REFORM COMMISSION OF SASKATCHEWAN

STATEMENT OF RECEIPTS AND PAYMENTS

Period from Incorporation
November 6. 1987 to March 31. 1988

Receipts:	
Law Foundation Grant (Note 4)	$89.341
Sundry	1.204
	90.545
Payments:	
Consultant Fees (Note 5)	35.700
Salary and Benefits (Note 5)	33.170
Printing	9.692
Other	125
	78.687
Excess of receipts over payments and cash balance at March 31. 1988	$11.858

(See accompanying notes to the financial statement)

THE LAW REFORM COMMISSION OF SASKATCHEWAN

NOTES TO THE FINANCIAL STATEMENT

Period from Incorporation
November 6, 1987 to March 31, 1988

1. Incorporation

The Law Reform Commission Act was amended effective November 6, 1987. At that date the Commission became a body corporate and continued the operations of The Law Reform Commission of Saskatchewan.

The purpose of the Commission is to keep under review all the law of the province with a view to its systematic development and reform and generally the simplification and modernization of the law.

2. Accounting Policies

Cash Basis

This financial statement is prepared on the cash basis. Revenues are recorded as received and expenditures are charged to the accounts as payments are made. Accordingly, the financial position of the Commission at March 31, 1988 does not include accounts payable of $10,332.

3. Administration Costs

The Commission's cost of office space, postage and stenographic services was absorbed by the Department of Justice. Those costs therefore are not reflected in the statement of receipts and payments.

4. Revenue

For the period from incorporation November 6, 1987 to March 31, 1988 the principal source of revenue was a Law Foundation grant. For the period July 1, 1987 to March 31, 1988 The Law Foundation granted $115,000 to the Commission. Of that amount $25,659 was paid by The Law Foundation prior to incorporation on November 6, 1987 and $89,341 thereafter. In subsequent years revenue will include amounts required for the purpose of the Commission as appropriated by the Legislature and grants from The Law Foundation.

5. Expenses

Prior to incorporation on November 6, 1987, the Commission was not a body corporate. Its expenses were paid by the Department of Justice from monies appropriated for the purpose and by The Law Foundation. However, consultant's fees for the Director of

Research and salary for the Legal Research officer were paid by these entities only to August 31, 1987. Consequently, for the intervening period from August 31, 1987 to the date of incorporation payments for services were not made. Responsibility for payments for services rendered during this period was assumed by the Commission. These expenses were paid after the date of incorporation and are included in consultant fees and salary and benefits in the Statement of Receipts and Payments.

THE LAW REFORM COMMISSION OF SASKATCHEWAN

FINANCIAL STATEMENT

Year Ended March 31. 1989

OFFICE OF THE PROVINCIAL AUDITOR

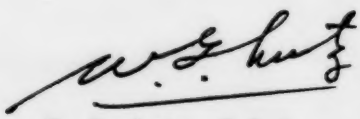
REGINA. SASKATCHEWAN

AUDITOR'S REPORT

To the Members of the Legislative Assembly of
Saskatchewan

I have examined the statement of receipts and payments of The Law Reform Commission of Saskatchewan for the year ended March 31, 1989. My examination was made in accordance with generally accepted auditing standards, and accordingly included such tests and other procedures as I considered necessary in the circumstances.

In my opinion, the statement of receipts and payments presents fairly the cash position of the Commission as at March 31, 1989 and its receipts and payments for the year then ended in accordance with the accounting principles disclosed in Note 2 to the financial statement applied on a basis consistent with that of the preceding period.



Regina, Saskatchewan,
August 3, 1989

W. G. Lutz, F.C.A.,
Provincial Auditor

THE LAW REFORM COMMISSION OF SASKATCHEWAN
STATEMENT OF RECEIPTS AND PAYMENTS

Year Ended March 31

	1989	1988 (Note 4)
Receipts:		
Law Foundation operating grant	$ 90,000	$ 89,341
Law Foundation printing grant	2,391	---
Provincial Government grant	90,000	---
Sundry	3,909	1,204
Total receipts	186,300	90,545
Payments:		
Salaries	144,969	68,870
Commissioners' honoraria	11,733	---
Printing	12,475	9,692
Travel	5,568	114
Telephone	4,874	---
Equipment rental and repairs	2,843	---
Employee benefits	2,730	---
Office supplies	2,456	---
Consulting services	2,177	---
Library	1,000	---
Miscellaneous	2,124	11
Total payments	192,949	78,687
Excess of receipts over payments (payments over receipts)	(6,649)	11,858
Cash, beginning of period	11,858	---
Cash, end of period	$ 5,209	$ 11,858

(See accompanying notes to the financial statement)

THE LAW REFORM COMMISSION OF SASKATCHEWAN

NOTES TO FINANCIAL STATEMENT

March 31, 1989

1. Incorporation

The Law Reform Commission Act was amended effective November 6, 1987. At that date the Commission became a body corporate and continued the operations of The Law Reform Commission of Saskatchewan.

The purpose of the Commission is to keep under review all the law of the province with a view to its systematic development and reform and generally the simplification and modernization of the law.

2. Accounting Policies

Cash Basis

This financial statement is prepared on the cash basis. Revenues are recorded as received and expenditures are charged to the accounts as payments are made. Accordingly, the financial position of the Commission at March 31, 1989 does not include accounts payable of nil (1988 - $10,332).

3. Administration Costs

The Commission's cost of office space was absorbed by the Department of Justice and therefore is not reflected in the statement of receipts and payments.

4. Comparative Figures

The comparative figures are for the period from incorporation, November 6, 1987 to March 31, 1988.

PERSONNEL

The Commission

The Law Reform Commission Act provides that the Commission shall be composed of not less than three members appointed by the Lieutenant Governor in Council and that one of the members shall be designated as Chairman. Mr. Dale G. Linn, of the firm of MacDermid Lamarsh in Saskatoon, is the Chairman and Madam Justice Marjorie A. Gerwing and Mr. Gordon J. Kuski, Q.C., both of Regina, are the other Commissioners.

Mr. Linn was appointed to the Commission as Chairman in October, 1987. Madam Justice Gerwing was appointed to the Commission in 1976 and Mr. Kuski in 1982.

Previous members of the Law Reform Commission were Professor Brian A. Grosman (Chairman, 1974-78), Professor Ronald C.C. Cuming, Q.C. (Chairman, 1978-82), Dr. D.A. Schmeiser, Q.C. (Chairman, 1982-87), Mr. Justice E.D. Bayda (Commissioner, 1974-76) (now Chief Justice for the Province of Saskatchewan) and Mr. George J.D. Taylor, Q.C. (Commissioner, 1974-82).

The Staff

Mr. Kenneth P.R. Hodges is the Director of Research having joined the Commission in October of 1976. The Legal Research Officer is Mr. Michael J. Finley. He joined the Commission in March of 1977.

The Commission also retains the services of a number of people as part-time consultants. The Commission is pleased to be able to rely on these outside consultants and is obliged to them for their ongoing efforts which have helped to maintain a healthy level of law reform activity within the province.

THE DEPARTMENT OF JUSTICE

During 1988 and 1989, the Commission developed a much closer working relationship with the Department of Justice. Members of the staff met with officials of the Department on a number of occasions regarding The Dependent Adults Act, amendments to The Wills Act, as well as certificates of incompetence. It is expected that the staff will provide assistance to the Department in the area of exemptions, foreclosure and other matters which may arise from time to time. In addition, the Director of Research works with officials of the Department on Uniform Law projects such as Defamation and Privacy.

OTHER LAW REFORM ORGANIZATIONS

The Commission has, during the course of the year, continued to develop good liaison with other law reform agencies both in and outside Canada. This exchange of information is essential to the functioning of the Law Reform Commission of Saskatchewan. Such close liaison minimizes the replication of research and makes available to this Commission research papers, reports and proposals which can be adapted to the Saskatchewan legal environment without incurring the financial burden necessitated by initiating original legal research in each area undertaken. The Saskatchewan Commission has gained substantially from the research completed by other commissions in areas of mutual interest.

In order to maintain important contacts in areas of interest to the Commission and its research commitments, the Chairman, the Director of Research and other members of the staff attended various meetings and conferences during the year. The Chairman attended the mid-winter meeting of the Saskatchewan Branch of the Canadian Bar Association, in February 1989 in Saskatoon, Saskatchewan, the Annual Meetings of the Law Society of Saskatchewan and the Saskatchewan Branch of the Canadian Bar Association in June 1989 in Yorkton, Saskatchewan, the Annual Meeting of the Canadian Bar Association in August 1989 in Vancouver, British Columbia and the mid-winter meeting of the Saskatchewan Branch of the Canadian Bar Association in February 1990 in Regina, Saskatchewan. The Director of Research attended the Annual Meeting of the Law Reform Conference of Canada in Yellowknife, Northwest Territories and as a delegate to the Uniform Law Conference of Canada attended its Annual Meeting also held in Yellowknife in August 1989.

PUBLICATIONS*

1. First Mini-Working Paper, Division of Matrimonial Property, Problems Within the Present Law, June 1974.
2. Second Mini-Working Paper, Division of Matrimonial Property, Possible Solutions to Problems Within the Present Law, September 1974.
3. Third Working Paper, Division of Matrimonial Property, Tentative Proposals for Reform of Matrimonial Property Law, October 1974.
** 4. First Annual Report 1974.
5. Background Paper, Reform of Personal Property Security Law in Saskatchewan, May 1975.
6. Background Paper, Family Maintenance Between Husband and Wife, November 1975.
7. Background Paper, Children's Maintenance, January 1976.
** 8. Second Annual Report 1975.
** 9. Tentative Proposals for a Saskatchewan Personal Property Security Act, February 1976.
10. Report to the Attorney General, Proposals for a Saskatchewan Matrimonial Homes Act, May 1976.
11. Report to the Attorney General, Conflict of Interest, March 1977.
** 12. Third Annual Report 1976.
13. Working Paper, Provincial Offences: Tentative Recommendations for Reform, April 1977.
** 14. Report to the Attorney General, Proposals for a Saskatchewan Personal Property Security Act, July 1977.
** 15. Fourth Annual Report 1977.
16. Tentative Proposals for a Consent of Minors to Health Care Act, November 1978.
17. Fifth Annual Report 1978.
17a. Annual Report 1978 (to the Legislature).
18. Tentative Proposals for Reform of the Law Affecting Liability Between Husband and Wife and Related Insurance Contracts, March 1979.
19. Tentative Proposals for Reform of The Jury Act, May 1979.
20. Tentative Proposals for Custody Law Reform, Part I: Substantive Law, August 1979.
21. Proposals for Reform of the Law Affecting Liability Between Husband and Wife and Related Insurance Contracts, November 1979.

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* All the Commission's publications are free of charge with the exception of:

No. 68, A Handbook on the Saskatchewan Personal Property Security Act, August, 1987, which is available at a cost of **$15.00** per copy.

No. 74, The Status of English Statue Law in Saskatchewan, February, 1990, which is available at a cost of **$20.00** per copy.

** Out of Print

22. Proposals for Reform of The Jury Act, December 1979.
23. Tentative Proposals Relating to the Civil Rights of Children, December 1979.
24. Proposals for a Consent of Minors to Health Care Act, February 1980.
25. Sixth Annual Report 1979.
25a. Annual Report 1979 (to the Legislature).
26. Tentative Proposals for Custody Law Reform, Part II: Procedures and Support Services, May 1980.
27. Tentative Proposals for a Definition of Death Act, June 1980.
28. Tentative Proposals for an Occupiers' Liability Act, June 1980.
29. Tentative Proposals for a Consumer Credit Act, Part I: Background and Underlying Considerations, Part II: Statistics, August 1980.
30. Proposals for an Occupiers' Liability Act, October 1980.
31. Proposals for a Definition of Death Act, December 1980.
32. Tentative Proposals for a Guardianship Act, Part I: Personal Guardianship, January 1981.
33. Tentative Proposals for Defences to Provincial Offences, February 1981.
34. Yearly Review 1980.
34a. Annual Report 1980 (to the Legislature).
35. Tentative Proposals for a Consumer Credit Act, Part III: Secured Consumer Credit Transactions, Summary of Recommendations, May 1981.
36. Tentative Proposals for an Equality of Status of Married Persons Act, May 1981.
37. Tentative Proposals for Changes in Limitations Legislation, Part I: The Effect of Limitations on Title to Real Property, July 1981.
38. Tentative Proposals for a Human Artificial Insemination Act, November 1981.
39. Proposals on Custody, Parental Guardianship and the Civil Rights of Minors, December 1981.
40. Tentative Proposals for a Compulsory Mental Health Care Act, November 1981.
41. Tentative Proposals for an Enforcement of Maintenance Orders Act, March 1982.
**42. Yearly Review 1981.
42a. Annual Report 1981 (to the Legislature).
43. Proposals for an Equality of Status of Married Persons Act, May 1982.
44. Proposals for a Guardianship Act, Part I: Personal Guardianship, January 1983.
45. Yearly Review 1982.
45a. Annual Report 1982 (to the Legislature).
46. Proposals Relating to Guest Passenger Legislation, August 1983.
47. Tentative Proposals for a Lieutenant Governor's Review Board in Saskatchewan, January 1984.
48. Yearly Review 1983.
48a. Annual Report 1983 (to the Legislature).

** Out of Print

49. Tentative Proposals for Reform of The Matrimonial Property Act, September 1984.
50. Proposals for a New Coroners Act, September, 1984.
51. Proposals for Restoring Civil Remedies Lost Upon Forfeiture Under The Automobile Accident Insurance Act, October 1984.
52. Proposals Relating to Ademption by Equitable Conversion, October 1984.
53. Tentative Proposals Relating to Testamentary Custody and Guardianship of Children, October 1984.
54. Proposals Relating to the Change of Name of Children of Divorced Parents, March 1985.
55. Proposals Relating to Joint Obligations, June 1985.
56. Yearly Review 1984.
56a. Annual Report 1984 (to the Legislature).
57. Proposals for a Compulsory Mental Health Care Act, March 1985.
58. Proposals for a Survival of Actions Act, May 1985.
59. Proposals Relating to Matrimonial Property Legislation, December 1985.
60. Yearly Review 1985.
60a. Annual Report 1985 (to the Legislature).
61. Tentative Proposals for Changes in Limitations Legislation, Part II: The Limitation of Actions Act, May 1986.
62. Proposals for Defences to Provincial Offences, December 1986.
63. Yearly Review 1986.
63a. Annual Report 1986 (to the Legislature).
64. Proposals for a Human Artificial Insemination Act, March, 1987.
65. Tentative Proposals for a Frustrated Contracts Act, April, 1987.
66. Proposals Relating to the Rules Against Perpetuities and Accumulations, June 1987.
67. Tentative Proposals for Compensation of Accused on Acquittal, July, 1987.
68. A Handbook on the Saskatchewan Personal Property Security Act, August 1987.
69. Annual Report and Review 1987
70. Proposals for a Frustrated Contracts Act, November, 1988.
71. Proposals for a Consumer Credit Act, February, 1989.
72. Annual Report and Review 1988.
73. Proposals for a New Limitation of Actions Act, April 1989.
74. The Status of English Statute Law in Saskatchewan, February 1990.

INFORMAL REPORTS*

1. The Tax Enforcement Act - Section 33, July 1984
2. The Change of Name Act: Publication of Notice of Change of Name, July 1984
3. The Rights of Parents Under The Family Services Act, February 1985
4. Proposals Relating to The Labour Standards Act: Employers' Deductions from Wages, September 1985
5. Proposals Relating to Lis Pendens, November 1985
6. Proposals Relating to Removal of a Certificate of Action under The Builders' Lien Act, February 1986
7. The Queen's Bench Act - Section 20, August 1986
8. Proposals Relating to Section 63 of The Automobile Accident Insurance Act, January 1987
9. Proposals Relating to Section 11 of The Criminal Injuries Compensation Act, June 1987

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* These are unpublished reports but typewritten copies are available upon request.